

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOHNNIE LEE JACKSON,

Petitioner,

Case No. 11-cr-20768

v

Honorable Thomas L. Ludington

UNITED STATES OF AMERICA,

Respondent.

**ORDER DENYING MOTIONS FOR RETROACTIVE APPLICATION OF
SENTENCING GUIDELINES**

Johnnie Lee is currently serving a 151-month sentence for distributing crack cocaine. On August 20, 2013, Jackson filed a motion to reduce his sentence, pursuant to 18 U.S.C. § 3582(c)(2), based on the recent Sixth Circuit decision in *United States v. Blewitt*, 719 F.3d 482 (6th Cir. 2013) (*Blewitt I*). On December 30, 2013, Jackson filed an identical motion, requesting the same relief.

Although it is true that the court in *Blewitt I* held that “the Fair Sentencing Act of 2010 . . . should apply to all defendants, including those sentenced prior to its passage,” *id.* at 484, the Sixth Circuit reheard the issue en banc and determined that the Fair Sentencing Act “does not retroactively undo final sentences.” *United States v. Blewitt*, 2013 WL 6231727, at *1 (6th Cir. Dec. 3, 2013) (*Blewitt II*). The Supreme Court subsequently denied a petition for a writ certiorari. *See Blewitt v. United States*, No. 13-8947, 2014 WL 859676, at *1 (U.S. Mar. 31, 2014).

Notably, under the Sixth Circuit Rules, “[a] decision to grant rehearing en banc vacates the previous opinion of the court, stays the mandate, and restores the case on the docket as a

pending appeal.” 6th Cir. R. 35(b); *see also Becherer v. Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 131 F.3d 593 (6th Cir. 1998) (same). So when the Sixth Circuit granted en banc review of *Blewitt I*, that opinion was effectively vacated. And under the holding of *Blewitt II*, Jackson is not entitled to relief. His motion for a sentence reduction will be denied.

Accordingly, it is **ORDERED** that Jackson’s Motions for Retroactive Application of Sentencing Guidelines (ECF Nos. 21 and 22) are **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: May 6, 2014

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail and on Johnnie Lee Jackson, Jr. #46635-039, P.O. Box 33, Terre Haute, IN, 47808 by first class U.S. mail on May 6, 2014.

s/Tracy A. Jacobs
TRACY A. JACOBS